**UNITED NATIONS**

**E**

**Economic and Social Council**

Distr.
GENERAL

E/CN.4/1996/SR.29
17 May 1996

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 April 1996, at 3 p.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

later: Mr. LEGAULT (Canada)

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(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES;

(d) QUESTION OF A DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 8) (continued)

(E/CN.4/1996/5-E/CN.4/Sub.2/1995/36, E/CN.4/1996/28 and Corr.1, 29 and Add.1, 2 and 3, 30, 31 and Add.1, 32 and Add.1, 33 and Add.1, 34, 35 and Add.1 and Corr.1 and Add.2, 36, 37, 38 and Corr.1, 39 and Add.1 and 2, 40 and Add.1, 41, 121, 122, 123, 124, 133, 143; E/CN.4/1996/NGO/10, 24, 25, 26, 36, 46, 55, 61; E/CN.4/Sub.2/1995/20 and Corr.1 and Add.1, 30 and Add.1; E/CN.4/1995/100; A/50/512)

1. Mr. ALFONSO MARTINEZ (Cuba), emphasizing the importance his delegation attached to agenda item 8, said it was deplorable that what had come to be called the Organization's "financial crisis" had led to a time-limit on statements in the Commission and compelled him to confine his comments to the fifth report by the Working Group on Arbitrary Detention (E/CN.4/1996/40 and Add.1).

2. He drew attention to resolution 1991/42, creating a working group with the task of investigating cases of detention imposed arbitrarily or otherwise inconsistently with the international standards set forth in the relevant international legal instruments. All those who had at that time taken part in determining the Group's mandate had been perfectly aware of the distinction that the General Assembly had already drawn between a situation of detention and one of imprisonment in resolution 43/173 of 9 December 1988 ("Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment", section on "Use of terms"). The term "detained person" meant any person deprived of personal liberty except as a result of conviction for an offence, whereas the term "imprisoned person" meant any person deprived of personal liberty as a result of conviction for an offence. Accordingly, the Commission had conferred on the Working Group competence that was clearly confined to situations concerning persons deprived of liberty before they had been convicted for an offence, not afterwards. The Working Group's mandate therefore related exclusively to arbitrary detention and in no case to arbitrary imprisonment. Assigning an international body functions whereby it could judge the arbitrary nature of a sentence of imprisonment would be equivalent to assigning it supranational powers. In the case in point, the Working Group on Arbitrary Detention would become completely unacceptable to many States which, like Cuba, had allowed resolution 1991/42 to be adopted by consensus.

3. However, the Working Group's fifth report simply confirmed his Government's worst fears. Very early on, the Group had unilaterally broadened the scope of its mandate and sent many States communications relating to cases of imprisonment, not detention. As long ago as December 1991, the Cuban Government had condemned the entirely unacceptable nature of the Group's activities, which were wholly incompatible with its original mandate. The Group had none the less followed the same course, countering criticism with the fallacious argument that resolution 1991/42 authorized it to "investigate" cases and failing to point out that it was to act exclusively with reference to cases of detention. Not content with going beyond its mandate, the Working Group also tried to impose on certain States, including Cuba, obligations under international instruments that those States had not even ratified.

4. It was stated in the report (para. 92) that the Commission had endorsed the Working Group's criteria. From 1992 to 1995, the Commission had indeed adopted all resolutions concerning the Working Group without a vote, yet every year his delegation, which had agreed to a consensus in a spirit of compromise, had never failed to express its reservations regarding the Group's methods of work. From now on, it would never make the mistake of trying to maintain a shaky consensus.

5. Furthermore, the Working Group had thought it could show other United Nations bodies how to perform their duties. For example, it had asked the High Commissioner for Human Rights to intercede with the Cuban Government in order for the Group to undertake missions to Cuba. It had also taken the liberty, on the basis of an improper interpretation of paragraph 5 of resolution 1995/59, which encouraged the Working Group to avoid unnecessary duplication - to transmit to the Special Rapporteur on the question of torture and to the Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion communications on which it had already taken a decision. Therefore, one and the same communication could now trigger several special procedures against the State concerned.

6. He also condemned the Working Group's decision to coordinate closely with the Special Rapporteur on the situation of human rights in Cuba within the framework of "cooperation with representatives of United Nations human rights bodies". Such coordination simply meant informing the Special Rapporteur of the Working Group's decisions in connection with Cuba.

7. Lastly, he would stress that the Working Group's interpretation of its mandate directly harmed the Commission's credibility. Together with other delegations concerned by that matter, he would endeavour to remedy the matter.

8. Ms. GIRMA (African Association of Education for Development) said that her statement would be confined to the situation in Ethiopia and more particularly to the problems concerning the independence of the judiciary, the right to freedom of opinion and expression, arbitrary detention and enforced or involuntary disappearances.

9. All judges had been suspended in the name of restructuring. Over the past five years, thousands of people had been dismissed to be replaced by government loyalists and such favouritism had been undermining the functioning of all judicial sectors. Some judges had been imprisoned on the orders of

local authorities which regarded themselves as being above the law. The Association called on the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers to investigate the situation of the judiciary in Ethiopia.

10. As to freedom of opinion, for the fourth straight year the Ethiopian Government was holding more journalists in jail than was any other country in Africa. Most of them were being held without any charges against them. The majority of newspapers and magazines had disappeared owing to constant harassment and threats by the Government.

11. The Association hoped that the Working Group on Arbitrary Detention would continue to transmit communications on people held in arbitrary detention in Ethiopia. Opponents of the regime were still being held, despite court rulings in their favour.

12. Some political figures had disappeared since 1991 and neither ICRC nor Amnesty International had been able to trace them. Since their whereabouts were unknown, their families could only imagine the worst.

13. It was gratifying that four refugees abducted from Sudan in June 1992 had been released and she wished to encourage the Ethiopian Government to release more political prisoners.

14. Ms. NEURY (Centre Europe Tiers-Monde (CETIM)), speaking also on behalf of Mr. Kanar, Chairman of the Istanbul section of the Human Rights Association of Turkey, said that CETIM had often condemned the alarming situation in prisons in Turkey. On 4 January 1996, four prisoners had lost their lives as a result of action by soldiers and warders in the dormitories of the Ümraniye prison in Istanbul. It was regarded by the authorities as a model prison for unconvicted or convicted political prisoners. One of the prisoners' complaints was that the prison authorities, carried out searches every two weeks in the presence of soldiers and officers, who provoked them by ransacking their belongings. However, under the official regulations, soldiers, who were in charge of security outside the prison, must not enter the dormitories without the express permission of the Prison Governor. Detainees were arbitrarily deprived of their mail, and visits by lawyers and relatives were restricted. Their rights to information and to medical care were not respected. In the autumn of 1995, prisoners had gone on hunger strike to demand better conditions. Faced with an impervious Prison Governor, the detainees had met in the courtyard, but the prison authorities had sent in soldiers and 98 prisoners had been injured. Talks had begun in December 1995 between the authorities and the prisoners, with the mediation of the Human Rights Association of Turkey and the Association of Contemporary Jurists, but had been broken off without any agreement reached. Visits had been done away with since December 1995 and interviews with lawyers since the events on 4 January 1996, when, in the course of a search, prisoners had been beaten by soldiers with truncheons and iron bars: 2 prisoners had died on the spot, one had been disfigured and 45 had been injured, one of them later dying from his injuries. The inquiry conducted by both Associations had established that the authorities' arguments justifying the massacre had been groundless, and no proper investigation had been started in connection with the guilty parties.

15. As the Chairman of the Istanbul Section of the Human Rights Association of Turkey and the mediator between the authorities and the prisoners, Mr. Kanar was demanding that steps be taken to put an end to torture in prisons, to secure effective judicial control, and to make sure that unconvicted and convicted prisoners were no longer held under the same conditions.

16. Mr. PERMUY (International Association of Educators for World Peace) said that his Association, which represented 110 countries, had been working for 13 years to ensure respect for the dignity of the individual. The Special Rapporteur on torture was to be congratulated on an excellent report. Another praiseworthy report was that by the Special Rapporteur on the situation of human rights in Cuba, which realistically condemned the constant and systematic violence in that country. The State security services were still arresting, imprisoning, harassing and threatening those who defended human rights. The Asociación Humanitaria Seguidores de Cristo Rey reported 60 cases of detention, violence and abuse of every kind against its members. There was also a systematic crackdown on the members of the Concilio Cubano organization because they wanted to arrange a meeting for opponents of the regime from inside and outside the country, something that was prohibited by the Cuban Government.

17. Mr. ALFONSO MARTINEZ (Cuba), speaking on a point of order, asked the speaker to keep to the agenda item, namely agenda item 8.

18. The CHAIRMAN asked the representative of the International Association of Educators for World Peace to confine his statement to agenda item 8.

19. Mr. PERMUY (International Association of Educators for World Peace) said that, in the case of cruel, inhuman or degrading treatment of persons subjected to detention or imprisonment throughout the world, he could do no less than speak of the situation in Cuba. He went on to condemn the crackdown on independent journalists, economists, lawyers and doctors, and all the members of the new civil society that was waging a struggle against the regime. Lastly, the Association wished to mention the incident in which two aircraft carrying members of a humanitarian mission had been coldly shot down in international airspace by Cuban fighter planes, an act which had cost four people their lives.

20. Mr. ALFONSO MARTINEZ (Cuba) said that the incident involving the aircraft which had penetrated Cuban airspace had nothing to do with the item under consideration. He pointed out that rule 43, paragraph 1, of the Commission's rules of procedure stated that "No one may address the Commission without having previously obtained the permission of the Chairman".

21. Mr. Legault took the Chair.

22. Mr. KAUL (Indian Council for Education) said he welcomed the Commission's efforts to prevent States from causing enforced or involuntary disappearances in the course of armed conflicts. However, it was also important for the Commission to take account of human rights violations committed by non-governmental or terrorist armed groups. Whether human rights violations were committed by military or paramilitary forces or by individuals or groups

of terrorists, the result was the same. The only difference was that government forces could be called to account for their acts; such action was not possible against terrorist groups.

23. The NGOs had been documenting cases of enforced and involuntary disappearances in Kashmir at the hands of paramilitary forces for the past five years and they called on the States to rectify matters. Scant attention, however, had been paid to more and more cases of disappearances that could be ascribed to militant groups and mercenaries. While the Commission was discussing the need for States to observe the rule of law and to guarantee protection of human rights, the victims of terrorism were still wondering which authority would demand that the terrorists abide by the same rules. For that reason, the Indian Council for Education urged the Commission to advise States to pay greater attention to violations committed by terrorists.

24. The Commission should also provide assistance to States to enable them to restructure their legal and institutional framework and ensure that the human rights of persons under detention were observed.

25. Mr. RINCHEN (United Towns Agency for North-South Cooperation) said that he had been arrested in 1993 in Tibet by the Chinese authorities on a charge of stealing State secrets, when a search of his home had produced a letter he had addressed to a delegation of the European Community. He had not been tortured physically, but he had been subjected to forms of mental torture, including eight months in solitary confinement under deplorable conditions. The magnificent facilities mentioned by the Chinese authorities for prisoners in Tibet only existed on paper. In the case of political prisoners who did not, as in his case, have the chance of being known to the international community, solitary confinement was accompanied by torture. The health of detainees was deplorable and they often suffered from dysentery or problems of the kidneys, liver, spine or joints. For that reason, he urged the Commission, on behalf of political prisoners in Tibet and in China, to adopt a forceful resolution on China, so as to make the authorities realize that they were no longer free to violate the human rights of detainees and to act against the dignity of the individual.

26. Ms. CHANG (Asian Cultural Forum on Development) said that in his report (E/CN.4/1996/39/Add.1) the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had recommended to the Government of the Republic of Korea that it should repeal the National Security Law and ensure that the prison authorities ceased asking prisoners to renounce political opinions displeasing to the Government. The delegation of the Republic of Korea had recently stated that the National Security Law was being reviewed, although the latest revision, of May 1991, had been only very superficial. In fact, the Government had not taken any substantial measures to repeal the law or to implement any of the recommendations made by United Nations bodies or international organizations. Following on from its efforts to rectify the wrongs of history, the Government should set Asia another example by repealing the National Security Law.

27. Gross violations of human rights had also been committed under the national security legislation in Bhutan, Tibet, China, Burma, Malaysia and Indonesia.

28. The Asian Cultural Forum on Development therefore proposed that the mandate of the Special Rapporteur on human rights and states of emergency should be extended to include human rights violations committed under such legislation and urged the Commission to encourage the countries of Asia to endorse the Johannesburg Principles on National Security, Freedom of Expression and Access to Information contained in the annex to the Special Rapporteur's report (E/CN.4/1996/39).

29. The Special Rapporteur had also recommended the revision of labour legislation which denied workers the right to freedom of expression and association, in particular provisions prohibiting "third-party intervention" in disputes between workers and employers and the formation of multiple trade unions. The Committee on Freedom of Association of the International Labour Organization (ILO), the Committee on Economic, Social and Cultural Rights, and the Human Rights Committee had also called for the repeal or revision of the legislation in question. Unfortunately, no action had yet been taken on those recommendations.

30. Mr. KOVEN (World Press Freedom Committee) welcomed the visits made by the Special Rapporteur on freedom of opinion and expression to Iran and the Republic of Korea and his intention to visit Turkey. Other such visits were needed, in particular to Cuba, the Democratic People's Republic of Korea, Nigeria and a large number of former Communist countries. In that connection the Special Rapporteur should be provided with more resources to enable him to visit more countries each year.

31. The World Press Freedom Committee was deeply concerned about the Special Rapporteur's endorsement of the "Johannesburg Principles on National Security, Freedom of Expression and Access to Information". It seemed that there had been no consultation on those principles with any of the free press organizations. Furthermore, they demonstrated the limits of any efforts to "restrict the restrictions" on free speech and freedom of the press. Despite the good intentions which had no doubt motivated their drafting, the language of the Principles repeatedly offered opportunities for those who wished to use the pretext of national security to restrict free speech and freedom of the press. The Commission would be doing a major disservice to human rights if it endorsed that pretext. Article 19 of the Universal Declaration of Human Rights, which recognized the right to seek, receive and impart information "regardless of frontiers" - an element missing from the Johannesburg Principles - was and should remain the sole universal standard in the matter. There was no need for any new texts open to authoritarian exploitation, for it was sufficient to ensure full implementation of that article of the Declaration throughout the world.

32. Ms. KAISIEPO (Survival International) drew the Commission's attention to the continuing extrajudicial executions, disappearances, torture and arbitrary detention of civilians in West Papua, which was considered to be the Indonesian province of Irian Jaya. Those violations were mostly a result of militarization and tight control by the military police and security forces. Most of them were occurring in the vicinity of the Freeport Indonesia mining complex, where the armed forces were preventing the local people from protesting against the environmental, social and cultural destruction caused by the mining operations. Until now the efforts made by Survival

International and other organizations to prompt the appropriate United Nations bodies to address the human rights situation in West Papua had proved fruitless.

33. Following the publication of reports about the disappearance and death of several people, Indonesia's National Commission on Human Rights had gone to West Papua and confirmed some of the allegations. Further to criticisms of its working methods it had decided to revisit West Papua, where it was expected to confirm more human rights violations. However, only four members of the Indonesian armed forces had been convicted of human rights violations, and many cases had not yet been properly investigated.

34. The acts of resistance by West Papuans showed a strong wish for independence - further confirmed by the demonstrations and the riots when the body of Mr. Wainggai, a Papuan leader who had died while in custody in Java (it was suspected that he had been poisoned) had been returned to West Papua. Violence seemed to be the only reaction on Indonesia's part.

35. As long as West Papua was treated as a colonial territory, there would be eruptions of violence. It was time for the international community to recognize the legitimacy of the struggle of the Papuan people for liberation from foreign domination. Survival International urged the Commission to take effective measures to monitor the human rights situation in West Papua and requested it to put pressure on the Indonesian Government to abide by the international standards concerning the rights of persons detained or imprisoned and to accede to the international instruments on the protection of those rights.

36. Ms. COMBESQUE (Movement Against Racism and for Friendship Among Peoples) said that 3,028 prisoners were at present awaiting execution in the United States. The Movement Against Racism and for Friendship Among Peoples (MRAP) drew the Commission's attention in particular to the case of Mumia Abu-Jamal, a journalist and writer, who had been sentenced to death in 1982 for the alleged murder of a white policeman. Millions of people throughout the world had very serious doubts about the conduct of the case against him: about the charge, based on conflicting and manipulated testimony and on incomplete ballistic evidence, as well as about the motives of the presiding judge of the court which had handed down the death sentence - he had in fact been a member of a police officers' association, which had been clamouring since 1982 for Mr. Abu-Jamal's execution; the international campaign of support for Mr. Abu-Jamal demanded that the judge should be declared incompetent to hear the case.

37. In 1995, 56 people had been executed in the United States, most of them by lethal injection, a method which in the opinion of some prison authorities produced a quick and clean death. In that same year the United States Congress had struck out an appropriation of $20 million to enable a number of organizations to take care of the legal appeal procedures to which any person sentenced to death was entitled. Now, for lack of money, more than half of such persons no longer had access to those procedures. Again in 1995, Florida, Texas, Louisiana, California and Washington State had authorized victims' families to be present at the execution, and South Carolina had executed two mentally handicapped persons who had had no place on Death Row.

38. MRAP therefore requested the Commission to remind its member States that the death penalty was a cruel, inhuman and degrading punishment and to call for a new trial for Mr. Abu-Jamal. The Commission also had a duty to call to order States that treated with contempt the international conventions to which they were parties.

39. The CHAIRMAN invited delegations which so desired to speak in exercise of their right of reply.

40. Ms. EL ETR (Egypt) said that, despite the fact that Egypt had begun a constructive dialogue with human rights NGOs, some of them continued to criticize Egypt and attack it with untruths. For example, one NGO had cited the case of 20 detainees who had allegedly died as a result of inhuman treatment. In fact, most of the persons named had not been imprisoned, and the medical services of the judicial system had confirmed that the other persons mentioned had died a natural death. It should be stressed in that connection that the medical services in question belonged to the Ministry of Justice and were subject to regular and very strict inspection.

41. It must also be emphasized that the current state of martial law did not conflict either with Egypt's Constitution or with its international treaty obligations and that Egypt respected its people's civil and political rights. Furthermore, the state of martial law applied only to the fight against terrorism and drug trafficking.

42. Mr. BUI QUANG MINH (Observer for Viet Nam) said that, in document E/CN.4/1996/NGO/24 circulated under agenda item 8, the so-called "Viet Nam Committee on Human Rights" reiterated the well-worn accusations which it had been making for the past 10 years. In the hope of regaining what it had lost following the liberation and reunification of the country by the Vietnamese people, that clique was still exploiting the question of human rights to try to achieve its political aims, which ran counter to the interests of the Vietnamese nation. However, the international community had acknowledged the swift and dynamic developments taking place in all areas of Vietnamese society. The Vietnamese delegation rejected all the allegations contained in the document.

43. Mr. RIMDAP (Observer for Nigeria) said that he could not accept the comments made at the previous meeting by the head of the delegation of the Netherlands concerning the human rights situation in Nigeria. There was nothing exceptional about the situation, and the Nigerian authorities were going to begin discussions with the Centre for Human Rights to work out an arrangement for the Special Rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit Nigeria. It was common knowledge that a fact-finding mission of the Secretary-General was currently in Nigeria and would be reporting in due course. As for the law on civil disturbances, it would remain in force as long as it remained on the statute book; rather than criticize that law, people would do better to help Nigeria to ensure it was applied.

44. Ms. DE CASTRO-MULLER (Philippines) welcomed the fact that in its statement the World Alliance of Reformed Churches had acknowledged the open attitude of the Government of the Philippines towards human rights NGOs. However, that organization also knew perfectly well that an amnesty programme had been introduced in the Philippines and that the only persons still in detention were those accused or convicted of violations of the ordinary law. Moreover, the Government had taken all the necessary measures to ensure that the anti-terrorist legislation was not applied injudiciously. The discussions which the Government and the President of the Republic had begun with NGOs on poverty relief also demonstrated how much the Philippine authorities wished to achieve that goal, in close cooperation with the persons and groups concerned. Lastly, the civilian armed groups which had been established for internal security purposes were now being disbanded.

45. Mr. AL-HADDAH (Observer for Bahrain) said that the representatives of France-Libertés: Fondation Danielle Mitterrand and of the International Organization against Torture had made false allegations against Bahrain. It was common knowledge that the troubles in Bahrain were the direct result of a foreign-backed terror campaign to destabilize the country. Following assertions that persons detained in Bahrain had been mistreated, the Bahrain authorities had submitted to the Special Rapporteur on torture detailed responses which refuted the allegations. It must therefore be emphasized that all persons arrested in Bahrain were held under conditions which were in complete conformity with the international standards. One of the women whose case had been mentioned had been released on bail on 16 March. No children had been arrested, detained or mistreated, and the treatment of minors was fully in conformity with the provisions of the Convention on the Rights of the Child, to which Bahrain was a party.

46. Mr. ALEMU GETAHUN (Ethiopia) said that, notwithstanding the assertion made by the representative of the African Association of Education for Development, all the judges had not been suspended in Ethiopia. On the contrary, for the first time in Ethiopia's history the Constitution guaranteed the independence of judges. All matters relating to judges and the courts were regulated not by the Government but by a commission on the administration of justice, which was independent. An inquiry into the specific cases mentioned was in progress; if it was established that abuses had been committed, legal proceedings would be brought.

47. With regard to the alleged detention of journalists, it must be emphasized that free speech was guaranteed by the Constitution. The only restrictions on exercise of that freedom - maintenance of national security, public order, health or public morals - were in conformity with the provisions of articles 19 and 20 of the International Covenant on Civil and Political Rights. The persons who had in fact been detained, who were not responsible journalists, enjoyed all the guarantees of due process.

48. As to arbitrary arrests, the Constitution stipulated that no one could be arrested except in accordance with the law. One of the persons mentioned by the African Association of Education for Development was under detention pending trial for alleged participation in a terrorist campaign. Another had been charged with inciting ethnic and tribal violence, tried and convicted.

49. It was obvious that democracy had been moving ahead in Ethiopia since 1991. Various political parties had participated in free and regular elections. The independence of the judiciary was guaranteed, and efforts were being made to ensure equality between the various population groups and between women and men. Accordingly, no attention should be paid to allegations which arose only from disinformation.

50. The CHAIRMAN said that the Commission had thus completed its consideration of agenda item 8.

INDIGENOUS ISSUES (agenda item 23) (E/CN.4/1996/83 and 84; E/CN.4/1996/NGO/73; A/RES/50/157; E/CN.4/1995/24; E/CN.4/Sub.2/AC.4/1995/7 and Add.1 to 3)

51. Mr. URRUTIA (Chairperson-Rapporteur of the Working Group established in accordance with Commission on Human Rights resolution 1995/32), introducing the report of the Working Group on a draft declaration on the rights of indigenous peoples (E/CN.4/1996/84), said that the Group, which had held its first session from 20 November to 1 December 1995, had been attended by representatives of 61 Governments and 64 indigenous organizations and NGOs. It had considered on first reading the whole of the text contained in the annex to Sub-Commission resolution 1994/45.

52. It was important to underline the spirit of cooperation which had characterized the proceedings in the Working Group. Despite the familiar disagreements concerning in particular the scope of application, problems of definition and difficulties connected with legal systems, it ought to be possible to find at the next session a balanced form of language that would solve most of the problems. He therefore urged government delegations and the indigenous organizations to work towards a consensus.

53. Mr. HENG (Malaysia) said that, since the beginnings of time, indigenous people had suffered discrimination, poverty and marginalization and even genocide. In Malaysia, however, the majority of the indigenous people had been able to secure their development, education and well-being, even though a very small segment still lagged behind the other ethnic groups. Indigenous people in Malaysia could also preserve their individual identity, and it was envisaged that they would be consulted on issues affecting natural resources and sustainable development, as well as on other aspects of the national development plan to the year 2020.

54. Malaysia supported the idea of setting up a permanent forum for indigenous people, provided that it included not only representatives of indigenous people and the organizations concerned but also independent experts and representatives of Governments. Moreover, if it was decided that the Sub-Commission's Working Group on Indigenous Populations should be maintained, its mandate must not overlap with that of the permanent forum.

55. Lastly, the proclamation of the International Decade of the World's Indigenous People would contribute to their development and well-being.

56. Ms. THOMSEN (Denmark), speaking also on behalf of Finland, Iceland, Norway and Sweden, said she was particularly pleased to note that a separate item on indigenous issues had been included in the agenda. The Sub-Commission's Working Group on Indigenous Populations had been established in 1982, and various recommendations relating to indigenous peoples had been included in the Vienna Declaration and Programme of Action and the international community must now take specific action.

57. It was therefore a positive sign that, despite some remaining differences of opinion, the open-ended Working Group on the draft declaration on the rights of indigenous peoples had completed its first reading of the draft, with the active participation of many indigenous representatives. The Centre for Human Rights, the Committee on non-governmental organizations and Governments should continue to ensure that those representatives had the broadest possible access to the Working Group so that it could benefit from their contributions. But the Working Group, whose first session had been conducted in an open and transparent way, seemed to be on the right track in terms of both substance and procedure.

58. The Nordic countries favoured the establishment of a permanent forum for indigenous people, in accordance with the Vienna Declaration and Programme of Action. In June 1995, Denmark had hosted a workshop on the question attended by representatives of indigenous peoples from all over the world as well as some 20 government and independent experts, including Mrs. Daes, the Chairperson of the Working Group on Indigenous Populations. The report of the workshop (E/CN.4/Sub.2/AC.4/1995/7 and Add.1 to 3) reflected the constructive nature of the debate and the progress achieved on a number of issues, despite the general reservations expressed by some Governments with regard to the definition of indigenous peoples. Many Governments and all indigenous representatives supported the idea that the permanent forum's scope of activity should be broad and that it should report to the Economic and Social Council. Most participants wanted the forum to be a partnership between Governments and representatives of indigenous peoples though it was clear that the options would have to be defined more precisely. The suggestion that United Nations mechanisms, procedures and programmes relating to indigenous peoples should be reviewed had met with consensus, as was confirmed in General Assembly resolution 50/157 in which the Secretary-General was requested to undertake such a review, taking account of the views of indigenous peoples. The Nordic countries were pleased to note that the General Assembly also endorsed the idea of a second workshop, in the interests of continued dialogue and further discussion.

59. The Nordic countries wished to pay a tribute to the Sub-Commission's Working Group on Indigenous Populations for its pioneering efforts and in particular for drafting the United Nations declaration on the rights of indigenous peoples. But the Working Group's activities did not stop there. Its future work could, for instance, focus on consideration of the question of a permanent forum for indigenous peoples and on existing mechanisms, procedures and programmes.

60. Lastly, in January 1966, the Nordic countries had sponsored an international seminar, in Copenhagen, on indigenous peoples' production and trade, within the framework of the International Decade of the World's

Indigenous People. They were particularly gratified to note that, in resolution 50/157, the General Assembly had adopted the programme of activities for the Decade. Having already contributed to the United Nations Trust Fund for the Decade, they trusted that other countries would do likewise and that a professional fund raiser would be appointed, as the General Assembly had recommended.

61. Mr. WILLIS (Australia) said that his country strongly supported the International Decade of the World's Indigenous People the theme of which - "Indigenous people: partnership in action" - would foster new and equitable relationships between States and indigenous peoples, on the one hand and the international community and indigenous peoples, on the other. The planning and coordination essential for the success of the Decade should be the responsibility of the United Nations High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and the Centre for Human Rights, and they must be given the necessary human, financial and material resources. The establishment of a unit at the Centre to deal with activities during the Decade was an urgent priority. At the same time, all United Nations agencies and organizations must address the concerns of indigenous peoples in their programmes and there must be a coordinated follow-up of the recommendations of recent world conferences pertaining to indigenous peoples.

62. The Australian Government and Australia's indigenous peoples were committed to working towards the adoption of a United Nations declaration on the rights of indigenous peoples. Australia therefore welcomed the success of the first session of the Working Group appointed to draft a declaration and trusted that applications from indigenous organizations to participate in the work of the Group would be approved as soon as possible.

63. The question of the establishment, within the United Nations system, of a permanent forum for indigenous people was another important issue. Australia hoped that the work of the first workshop held on the matter in Copenhagen in June 1995 would be followed up and it would support all efforts of indigenous peoples to achieve recognition in international forums generally.

64. At the national level, the success of the Decade would require the establishment of mechanisms for consultation and cooperation between Governments and indigenous peoples, in a spirit of partnership. In Australia, the Aboriginal and Torres Strait Islander Commission (ATSIC) had responsibility for coordinating, planning and implementing activities during the Decade, with the aid of a National Indigenous Advisory Committee established for the purpose. The Committee had identified a number of issues for consideration in a national Decade action plan, including preparation of promotional and educational material in connection with the distribution of the draft declaration. It had also adopted annual themes for the Decade. ATSIC contributed $A 10,000 annually to the United Nations Voluntary Fund for the Decade.

65. Lastly, Australia urged Governments to participate fully in the activities of the Decade with a view to redressing the wrongs suffered by indigenous peoples in the past and to putting an end to their marginalization.

66. Mr. LILLO BENAVIDES (Chile) said that his country fully supported the efforts of the international community, particularly within the framework of the Commission on Human Rights, the Sub-Commission's Working Group on Indigenous Populations, the World Conference on Human Rights and the General Assembly, to promote the rights of indigenous peoples. In its view, two of the tasks in the programme of activities for the Decade of Indigenous People, as approved by the General Assembly, must be tackled as a matter of priority: the completion of the universal declaration on the rights of indigenous peoples and the creation of a permanent forum for indigenous peoples.

67. In order to perform the first task, it would be necessary for organizations representing indigenous peoples, the Commission and the Working Group appointed to draft a declaration on the basis of the draft prepared by the Sub-Commission's Working Group, and also ECOSOC and in particular its Committee on Non-Governmental Organizations, to endeavour, in a spirit of cooperation and justice to reconcile the aspirations of indigenous peoples and the concerns of nation-States.

68. Chile, which regarded the establishment of a permanent forum for indigenous populations as a matter of the utmost priority, was pleased to note that the question had been considered by the workshop held in Copenhagen in June 1995; it proposed, pursuant to paragraph 9 of General Assembly resolution 50/157, that a second workshop of that kind should be held in Chile, in close consultation with Governments and taking into account the views of indigenous peoples.

69. Chile was also in favour of the establishment at the Centre for Human Rights of a support group for activities carried out by the Centre on behalf of indigenous peoples, in which indigenous persons would participate and which would be responsible in particular for coordinating the activities carried out in the framework of the Decade.

70. Mr. MENESESE ESPINOSA (Ecuador) said it was gratifying that a new item on the Commission's agenda would now be devoted to the important issue of indigenous peoples. Ecuador also favoured the establishment within the United Nations system, of a permanent forum for indigenous peoples, the success of which would depend upon its objectives, functions, policies and obligations.

71. The declaration on the rights of indigenous peoples, to the elaboration of which Ecuador attached special importance, should be a realistic, balanced and pragmatic expression of the aspirations of a particular group of human beings and must not jeopardize either the stability of the community or the territorial integrity and historical and legal unity of States.

72. Ecuador, mindful of the need to strengthen the multicultural and multiracial nature of its own society, protected the right of the ethnic minorities which formed part of the Ecuadorian nation to preserve their culture, language and customs. In keeping with the objectives of the International Decade of the World's Indigenous People it sought through the National Secretariat for Indigenous Affairs of the Office of the President of the Republic, to wipe out any vestige of discrimination the indigenous people

might suffer and to ensure their participation in national life. The Government would endeavour, in the context of the Decade, to provide the indigenous peoples with technical, administrative and organizational training, to strengthen their cultural identity, to protect their heritage and environment, and to improve their living conditions by using methods of co-participation and self-management and by respecting their methods of organization and management.

73. Mr. SA RICARTE (Brazil) said that Brazil had been an active participant in the Sub-Commission's Working Group on Indigenous Populations, in the first session of the Working Group appointed to draft a declaration on the rights of indigenous peoples, and in the elaboration of General Assembly resolution 50/157 which set forth the programme of activities for the International Decade of the World's Indigenous People. If the Decade was to be a success, international organizations and specialized agencies would have to play an active part in implementing the programme and would have to allocate the necessary human and financial resources.

74. It was for that reason that Brazil had taken the initiative of proposing a resolution which had been adopted by the Executive Board of the World Health Organization in which the Director-General was requested to designate a focal point for coordinating WHO activities for the Decade and submitting to the next World Health Assembly a proposal for a programme of action to be undertaken in cooperation with Governments and organizations of indigenous people. He urged the Coordinator of the Decade to pursue his efforts to ensure the involvement of other organizations and specialized agencies in the programme of activities of the Decade. The Commission on Sustainable Development, for example, could make an important contribution towards the implementation of Chapter 26 of Agenda 21.

75. Periodic evaluation of the Programme of activities, at both the national and the international level, would also be necessary. The Working Group on Indigenous Populations, the Economic and Social Council, and the Commission could play a significant role in that connection.

76. The Working Group on a draft declaration on the rights of indigenous peoples - the first session of which had been skilfully conducted by Mr. José-Urrutia - was to be in a position to propose a universally acceptable and politically realistic instrument that would promote the harmonious coexistence of indigenous and non-indigenous societies in the context of the nation-State, it must take account of the diversity of situations in which indigenous peoples were to be found throughout the world.

77. His delegation had strong doubts about the need for a permanent forum for indigenous people. Such a body might duplicate other United Nations mechanisms and in particular the Working Group on Indigenous Populations which, under the charismatic leadership of Mrs. Daes, was working very constructively on the promotion of the rights of such populations. The Working Group's mandate should also be reviewed with a view to including new issues such as development, the environment, health, the rights of indigenous women and the economic activities of indigenous communities.

78. Mr. LORD (Canada) said it was gratifying that, as a result of the efforts made, notably by Canada and the organizations that represented indigenous peoples a new item on the question of indigenous people had been included in the Commission's agenda.

79. At the previous session, Canada had co-sponsored the resolution under which the Commission had established the Working Group on a draft declaration on the rights of indigenous peoples. At the Group's first session, his delegation had worked in collaboration with others to ensure that the draft declaration prepared by the Sub-Commission's Working Group on Indigenous Populations would provide the basis for its work and it had actively supported the effective participation of indigenous groups - which it regarded as decisive - in its deliberations. It was in that spirit that Canada had supported General Assembly resolution 50/156, authorizing the United Nations Voluntary Fund for Indigenous Populations to be used to assist indigenous groups in attending the Working Group's discussions. In that connection it urged the Economic and Social Council to ensure that requests for accreditation from representatives of indigenous groups throughout the world were processed expeditiously.

80. Recognizing the need for a continuing dialogue with indigenous populations between Working Group sessions, Canada had, in March 1996, hosted a United Nations Expert Seminar on Practical Experiences regarding Indigenous Rights and Claims, at Whitehorse, Yukon, which had brought together government and indigenous experts and had been presided over by an indigenous leader. It had been decided that the report of the Seminar should be submitted to the fourteenth session of the Working Group on Indigenous Populations and annexed to the Secretary-General's report on the Decade which was to be presented to the General Assembly at the fifty-first session, and also that it should be published and disseminated as widely as possible. His delegation would urge those specialized agencies that had been unable to attend the Seminar to consider how they could respond to its conclusions and recommendations.

81. Canada would continue to work actively together with its Aboriginal peoples, on the development of plans and initiatives to meet the objectives of the Decade. It had already decided that a National Aboriginal Day would be marked on 21 June each year.

82. His country also trusted that the Working Group on Indigenous Populations would continue its important work and that ways would be found of enhancing the contribution of indigenous people to that work. In addition, Mr. Alfonso Martinez should receive the support needed to complete his study on treaties, agreements and other constructive arrangements between States and indigenous peoples.

83. Canada would continue to strive for the promotion of the rights of indigenous peoples, in particular by participating actively in the establishment of the Arctic Council, in whose deliberations indigenous groups would be actively involved, and by participating in the elaboration of the draft Inter-American declaration on the rights of indigenous peoples which was currently under discussion in the Organization of American States.

84. Ms. TINCOPA (Peru) welcomed the fact that the question of indigenous peoples, to which her country attached great importance, was now a separate agenda item. The second session of the Working Group on a draft declaration on the rights of indigenous peoples would presumably enable any questions on which agreement could not be reached at the first session to be settled. Her Government was playing an active part in the elaboration of the draft declaration. If that declaration was to be just, realistic and applicable by States, any questions not relevant to indigenous peoples should be left out of the negotiations, and helping the State to give effect to the rights of indigenous people should be adopted as the sole objective.

85. Peru, which had 72 ethno-linguistic groups, gave the indigenous people broad cultural, administrative and jurisdictional autonomy and had entered into a wide-ranging process of consultation with their representatives with a view to the adoption of specific measures of interest to them.

86. Her Government favoured the establishment of a permanent forum for indigenous people on the understanding that it was for the State to represent the interests and aspirations of all peoples living on its territory, including the indigenous population. There was, however, a close link between the realization of such an undertaking and the scope that the declaration on the rights of indigenous peoples would have. Accordingly, the forum could not be established until the declaration had been adopted.

87. The CHAIRMAN invited delegations wishing to do so to exercise their right of reply.

88. Mr. FERNANDEZ PALACIO (Cuba) said that the misleading and infamous remarks directed at Cuba and made, under agenda item 8, by those who had spoken on behalf of the United Towns Agency for North-South Cooperation and the International Association of Educators for World Peace were wholly unacceptable and out of keeping with the work of the Commission. Indeed, by decision 1993/330, the Economic and Social Council had already reclassified the Association from category II to the Roster for failure to comply with the terms of its resolution 1296 (XLIV). Cuba was going to ask the Committee on Non-Governmental Organizations to propose that the Council should strike from the Roster once and for all an association that abused the privileges conferred upon it by its status in such a scurrilous manner and could, because of its irresponsible action, tarnish the image of the NGO community as a whole.

89. Mr. ARDA (Turkey) said that one NGO had given a biased account, to mislead the Commission of an incident that had occurred in a Turkish prison in December 1995. On the pretext of protesting against the conditions in which they were being held, the inmates of that prison, who were members of various terrorist organizations, had organized a demonstration that had degenerated into open revolt. The police forces had then restored order in compliance with the law.

The meeting rose a 6 p.m.